IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No.437 of 2006
Date of decision:30.10.2006

The Commissioner of Income Tax, Jalandhar-II, Jalandhar

....Appellant

versus

Shri Jaswant Singn Juneja, Jalandhar

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

This appeal has been preferred by the revenue against the order dated 22.2.2006 passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, 'the Tribunal') in ITA No.476(ASR)/2003, proposing following substantial question of law:-

> "Whether, on the facts and in the circumstances of the case, the findings of the Hon'ble ITAT in deleting the addition of Rs.17,00,000/- made by the AO is unreasonable and contrary to evidence?"

The assessee filed its return of Income, which was assessed in respect of which assessment was completed on 27.3.1995. Subsequently, re-assessment proceedings were initiated on the ground that the assessee got three bank drafts prepared through its employee against cash payment and since the forms in question did not exist, the amounts of bank drafts were undisclosed income of the assessee. The Assessing Officer made an addition of Rs.17,00,000/-.

Appeal of the assessee was accepted by the Commissioner of

Income Tax (Appeals), for the following reasons:-

(i) Facts established that M/s. Vikas Pipes which was held to be non-existent, did exist;

(ii) Basis of re-assessment was not confronted to the assessee;

(iii) The Assessing Officer did not summon the parties claimed by the assessee to have paid the amounts of sale proceeds;

(iv) Purchases were made by the assessee mainly from Steel Authority of India which were verifiable;

(v) The assessee had produced ST XXII forms in respect of Glorious Industries and CST registration of Bansal Sales Corporation and the said firm could not be held to be non-existent.

Appeal of the revenue against the order of the CIT(A) has been dismissed by the Tribunal.

We have heard learned counsel for the revenue and perused the findings of the Tribunal, particularly in paras 7 and 7.1 of the impugned order.

The question involved is primarily a question of fact and even if two views are possible, the same cannot be held to be a substantial question of law. Findings of the CIT(A) and the Tribunal are not shown to be based on non-existent or irrelevant material.

The appeal is dismissed.

(Adarsh Kumar Goel)
Judge

October 30, 2006
'gs'

(Rajesh Bindal)
Judge